



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

MAR 23 2011

REPLY TO THE ATTENTION OF:

E-19J

Mindy Gardner  
Wisconsin Department of Transportation  
US 41 Brown County Project Office  
1940 West Mason Street  
Green Bay Wisconsin 54303

Re: Draft Environmental Impact Statement, US 41, Memorial Drive to County M, Brown County,  
Wisconsin - CEQ #20110034

Dear Ms. Gardner:

The U.S. Environmental Protection Agency has reviewed the draft environmental impact statement (EIS) for the above-mentioned project. Our comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508) and Section 309 of the Clean Air Act.

The proposed action is to reconstruct US 41 from Memorial Drive to County M/Lineville Road in Brown County, Wisconsin. Improvements include providing additional traffic capacity on US 41 and reconstructing the interchanges at US 141/Velp Avenue, I-43 and County M. EPA provided concurrence for the Purpose and Need for the project on November 17, 2010.

EPA provided concurrence for retaining Build Alternative D (US 41 expansion with Collector/Distributor roadways between US 141/Velp Avenue and I-43 with Freeway Split Configuration) and Alternative E (US 41 expansion with full reconfiguration of I-43/US 41 interchange) for analysis in the Draft EIS on November 17, 2010. For each alternative, there are two roundabout options, resulting in a total of four alternatives to be considered. The Wisconsin Department of Transportation (WisDOT) and the Federal Highway Administration will identify a preferred alternative after reviewing public input from the comment period for the Draft EIS.

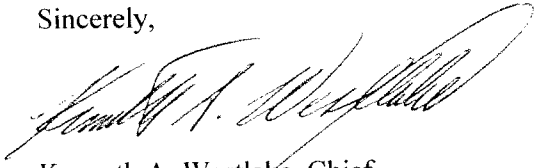
We understand that Option 2 (five-legged roundabout) is no longer being actively considered, due to additional wetland impacts and objections from the Village of Howard. While we agree with the elimination of Option 2, we reviewed it nonetheless because it was included as part of the alternatives analysis.

Since no preferred alternative is identified, EPA rates all alternatives and assigns the overall Draft EIS with the lowest rating among all alternatives. Based on our review of the Draft EIS and conversations between you and Elizabeth Poole of my staff, we have assigned a rating of "**Environmental Concerns – Insufficient Information**" (EC-2); each of the four alternatives was rated EC-2. These ratings are based

on impacts to aquatic resources (wetlands, streams, failure to identify connected actions and water quality). Additional concerns include indirect traffic impacts, aesthetics, and impacts to threatened and endangered species. These concerns should be addressed in the Final EIS and the Record of Decision. A summary of the rating definitions is enclosed.

Should you have any questions, please do not hesitate to contact me or Elizabeth Poole of my staff at (312) 353-2087 or poole.elizabeth@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth A. Westlake", written over a horizontal line.

Kenneth A. Westlake, Chief  
NEPA Implementation Section  
Office of Enforcement and Compliance Assurance

Cc: George Poirier, Federal Highway Administration  
Eugene Johnson, WisDOT Bureau of Equity and Environmental Services  
Charlie Webb, CH2M Hill

Enclosures (2)

**U.S. Environmental Protection Agency, Region 5 - Comments on the Draft Environmental  
Impact Statement, US 41, Memorial Drive to County M, Brown County, Wisconsin  
CEQ #20110034**

Aquatic Resources

*Wetlands*

We view the wetlands analysis and wetlands exhibits as insufficient. There is little indication of wetland quality beyond the presence of non-native invasive species, such as phragmites. Floristic quality is not the only parameter that determines a wetland's function and value. As outlined on page 3-21, the wetlands in the project area provide water quality protection, shoreline protection, ground water recharge, and wildlife habitat; these are important functions which should be included in the quality determination. The wetlands in the project area are part of a greater network of Great Lakes coastal zone aquatic resources; the wetlands are subject to changes in water level from Lake Michigan. We understand that the final wetlands delineation is expected next year; we recommend that it be included in the Final EIS.

Wetland exhibits (3-3 through 3-6 and 3-10 through 3-13) are not detailed enough for review. While the maps indicate direct impacts to wetlands and their associated types, they do not indicate special features mentioned in the text, for example the location of Suamico Lacustrine Flats. Utility adjustments depicted in exhibits 3-10 through 3-13 do not show wetland impacts, although text on pages 3-48 and 49 indicate there will be direct impacts to wetlands as a result of utility adjustments. We recommend that these exhibits be updated to show wetlands impacts in order to analyze the extent to which avoidance and minimization of impacts has occurred. See "Utility Adjustments" below for additional concerns regarding avoidance and minimization.

We recommend more details regarding wetlands mitigation be added to the Final EIS. Only 63 acres of wetlands remain available at the Resort Road wetland bank site; it is not clear which types of wetlands are available for compensation for the proposed project. Additionally, because the quality of existing wetlands that will be impacted is not clear, it is difficult to determine if available credits at the bank will adequately mitigate for their loss.

Because the Draft EIS acknowledges that the only mitigation bank within the watershed will not have sufficient credits to mitigate for this project's impacts, the Final EIS should discuss the possibility for onsite wetlands mitigation within the coastal zone of the Great Lakes. Publicly-owned lands adjacent to the project area should be considered for onsite restoration or enhancement projects. There may be opportunities to partner with state and local agencies to create meaningful long-term projects that would benefit water quality and wildlife habitat.

EPA acknowledges the avoidance of further wetlands impacts by eliminating additional access roads and keeping East and West Deerfield Avenue frontage roads in place and the minimization of wetlands impacts by altering the design for both Alternatives D and E.

*Streams*

Under Alternatives D and E, Beaver Dam Creek will be realigned on either side of US 41. We appreciate that the new stream channel will have a wider cross section and will be further from US 41. However, we strongly recommend that realignment of the Creek employ natural channel design. Currently, the mitigated Creek is depicted as a channelized ditch in Exhibit 2-2; this is not adequate stream mitigation under the Clean Water Act 404(b)(1) guidelines. The Draft EIS should indicate objectives of stream realignment, including, but not limited to, biotic, habitat and profile restoration. We strongly recommend that the realignment of the Creek include a buffer of at least 50 feet on each side. We recommend the buffer not include turf grass, but native trees, shrubs and deep-rooted plants instead. Native plants are more effective at filtering pollutants, increasing infiltration, and preventing bank erosion. This will help stabilize the stream bank, improve water quality and restore wildlife habitat.

The existing box culvert that carries US 41 over Beaver Dam Creek will be moved approximately 400 feet south of its current location. The proposed box culvert will be 60 feet longer than the existing one to accommodate for the widening of US 41. We recommend open bottom culverts rather than box culverts; this maintains habitat connectivity and allows for the accumulation of substrate. An open bottom culvert will help to increase the likelihood that Beaver Dam Creek will recover natural stream functions.

Under Alternatives D and E, existing three-span bridges carrying northbound and southbound US 41 over Duck Creek will be replaced with two-span bridges. We commend the replacement, which reduces the number of in-stream piers and enhances stream functions.

#### *Water Quality*

Total maximum daily load (TMDL) determinations for low dissolved oxygen and sediment/total suspended solids are expected in the reasonably foreseeable future for Duck Creek. Given the extent of construction for the proposed project, sediment loading is likely to increase in Duck Creek during construction and as impervious surfaces increase. In order to comply with the future TMDL, we recommend bioswales or stormwater retention basins be constructed in the medians and along the rights-of-way and a vegetated buffer along Duck Creek. This will increase infiltration and filter runoff. Use of low-growing plants, which require infrequent mowing, should not attract wildlife that might cause traffic disruptions. Bioswales or stormwater retention in the medians will help reduce post-construction total suspended solids by 40% as required by Wisconsin Administrative Code Chapter TRANS 401.

The Draft EIS does not outline how construction will be handled, given that much of the project area and its surroundings are in wetlands. The wetlands in the project area are impacted by changes in Lake Michigan water levels. Explicit measures to minimize additional temporary impacts to wetlands during construction and limit negative impacts to water quality (e.g., use of mats or construction during winter) should be included in the Final EIS and committed to in the Record of Decision (ROD). The Final EIS should detail how construction will take place so that wetland impacts are avoided or minimized and how these measures will ensure that the TMDL for sediment/total suspended solids is not exceeded. Any construction best management practices should take into account the changing lake levels. If there are unavoidable temporal wetland impacts, they should be accounted for in the conceptual mitigation plan.

#### *Utility Adjustments*

Given that the relocation of American Transmission Company's overhead transmission lines and Green Bay Metropolitan Sewerage District interceptor sewer lines are required only because of the proposed project, they are connected actions (40 CFR 1508.25(a)(1)). Both utility adjustments will result in additional wetlands impacts. The utility adjustments and their impacts should be included in this analysis as part of the proposed project and should not be analyzed in a separate document as stated on page 3-49. We expect all impacts from the utility lines relocations be included in the Final EIS.

#### Indirect Impacts – Traffic

The analysis of indirect impacts to traffic is not comprehensive. Under Alternative E, access to I-43 from US 141/Velp Avenue via US 41 is eliminated. In Table 3-2, the Draft EIS states that this will cause changes in traffic patterns along these routes and at the I-43/Aitkinson Road interchange, which will be the next nearest access point between I-43 and US 141/Velp Avenue. The Draft EIS does not indicate the extent of increased use of US 141/Velp Avenue and the I-43/Aitkinson Road interchange. This analysis should include how projected levels of service, stormwater runoff, noise, and vibrations might change due to increased use of these roads and this interchange.

#### Aesthetics

We recommend a vegetated barrier (e.g., evergreens) between US 41 and the Island Court and Long Grove Avenue/Rosewood Street neighborhoods. This will provide an aesthetic barrier between the road and the neighborhoods, particularly for those homes that will become first-row homes along US 41. In addition to creating a sense of separation for the community, vegetation along the realigned portion of Beaver Dam Creek will serve as a buffer, as detailed above. A vegetated barrier will benefit water quality and increase the stream's chance of recovering natural functions and values.

#### Threatened and Endangered Species

Table 3-3 states that "impacts to threatened or endangered species habitat could occur as land is developed in accordance with community comprehensive plans" for the No Build Alternative as well as both build alternatives. The Draft EIS also states that both Alternatives D and E "have the potential for impacting threatened or endangered species habitat beyond the study area, particularly in the Village of Suamico and southern Oconto County." These statements should be explained in more detail, including the species to which these statements apply, the extent of habitat impacts, and what measures will be taken to avoid, minimize or mitigate for their loss. If the communities have comprehensive plans that will protect such habitat or green space, this should be discussed. Further coordination with U.S. Fish and Wildlife Service is recommended to evaluate the cumulative impacts to threatened and endangered species.

#### Beneficial Reuse

EPA understands that US 41 contains recycled materials. We commend WisDOT for their inclusion of recycled materials in the original design of the road; we recommend that this practice be continued during construction of US 41 and I-43 interchange. This information should be included in *Section 3.18 Construction* and should be committed to in the ROD.

